



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/599,951

10/13/2006

Kurt Sture Birger Ericson

37650

7138

23589

7590

02/05/2009

HOVEY WILLIAMS LLP

10801 Mastin Blvd., Suite 1000

Overland Park, KS 66210

EXAMINER

HAWKINS, KARLA

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

02/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,951	Applicant(s) ERICSON, KURT STURE BIRGER	
	Examiner KARLA HAWKINS	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the initial Office action for application 10/599,951.
2. Claims 1-39 are pending.

Claim Rejections - 35 USC § 112

3. Regarding claims 1, 14, and 27 the phrase "substantially" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

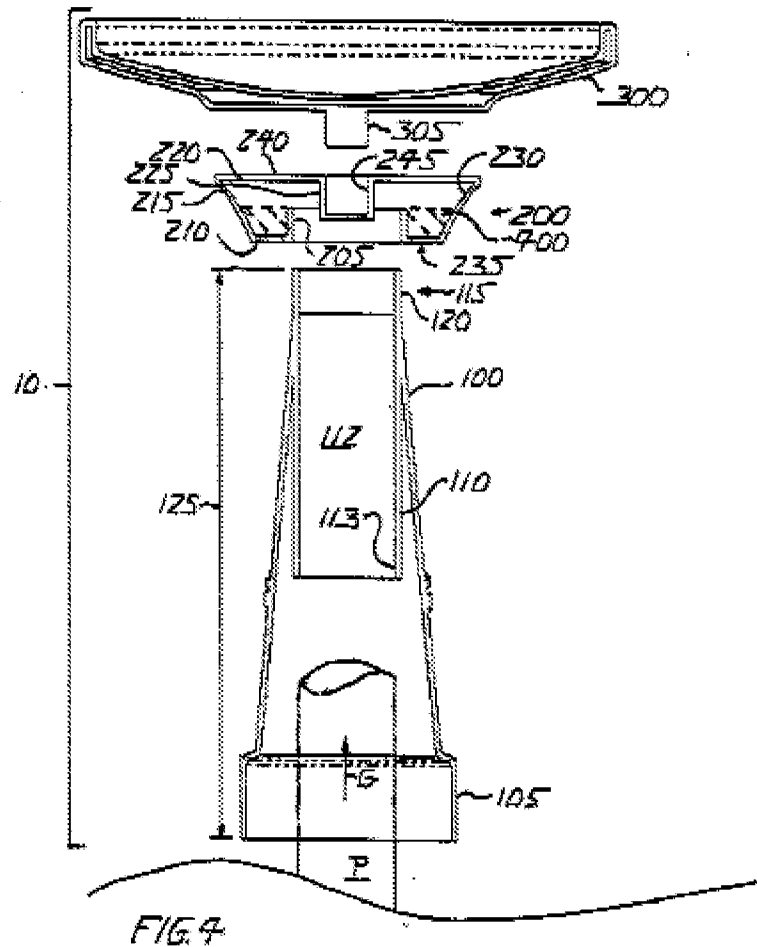
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 14-18, 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by **TRAUT ET AL. (US2003/0150197)**.
6. With regard to claims 1, 14, and 27 **TRAUT** discloses a vent and method of concealing and venting a septic system (paragraph 8, figure 4 and 5); **TRAUT** teaches a body defining an inner chamber **200**; at least one inlet **254** and at least one outlet **305**; at least one odor absorbing means **400**; and exhaust surface **235**; first flow direction **G** (figure 4); and a second flow direction opposite to a vector of the first direction shown by arrows (figure 5). **TRAUT** also discloses a filter **400** for filtering gas received from vent pipe **P** prior to release into the

Art Unit: 1797

atmosphere, filter **400** is disposed in fixture mount **200**. Filter **400** may be constructed of charcoal or other materials for removing or treating harmful or undesirable gas components(paragraph 32).



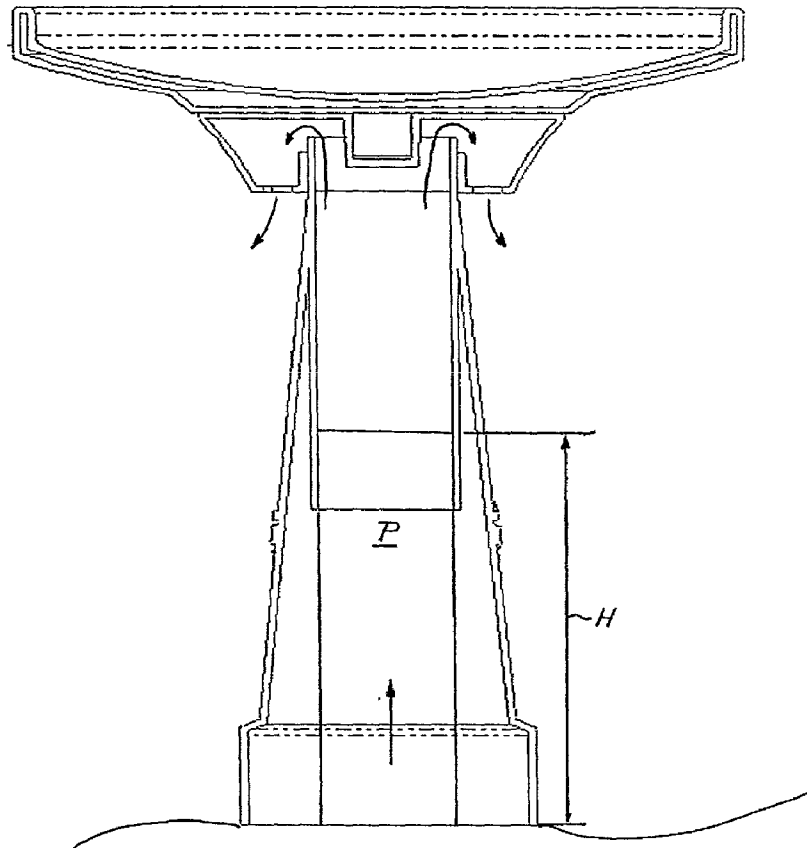


FIG. 5

Art Unit: 1797

7. Regarding claims 2, 16, and 28 **TRAUT** teaches fixture mount **200** (chamber) having a lower wall **210**, side wall **215**, and top wall **220** and an inner wall **225** (paragraph 29, figure 4).
8. Regarding claims 3,4, 15, 17, 29, and 30, **TRAUT** discloses filter **400** for filtering gas received from vent pipe **P** prior to release into the atmosphere, filter **400** is disposed in fixture mount **200**. Filter **400** may be constructed of charcoal or other materials for removing or treating harmful or undesirable gas components (paragraph 32, figure 4). **TRAUT** also discloses in figure 4, an area above the filter **400**, between wall **220** and filter area **400** (volume free of odor absorbing means).
9. Regarding claims 5, 18, 31, **TRAUT** discloses filter **400** may be constructed of charcoal or other materials for removing or treating harmful or undesirable gas components (paragraph 32).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1797

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 6-13, 19-26, 32-39 are rejected under 35 U.S.C. 103(a) as being obvious over **TRAUT ET AL. (US2003/0150197)**.

13. Regarding claims 6-8, 19-21, and 32-34, **TRAUT** discloses the invention is not limited to the particular embodiments described herein (paragraph 40); and in figures 4 and 5 filter **400** wherein the inlet surface is taken to be the perforated lines in section **200** at the top of filter section **400**. The exhaust surface is noted as **235** (figure 5). **TRAUT** discloses the claimed invention except for the exhaust surface being comprised between 1.5 and 5 times the inlet surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the outlet surface between 1.5 and 5 times the inlet surface, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

14. Regarding claims 9-12, 22-25, 35-38 **TRAUT** teaches a tubular body **100**; a cover **200**, peripheral channel **112** (figures 2 and 4).

15. With further regard to claims 10-12, 23-25, and 36-38 **TRAUT** discloses the claimed invention except for the odor absorbing means located at least partly in the tubular body and the peripheral channel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate a part

Art Unit: 1797

of the odor absorbing means within the tubular body and the peripheral channel, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

16. With regard to claims 13, 26, and 39 **TRAUT** teaches leg **100** has a top **115** configured to mount fixture mount **200**; to that end, the top **115** may define an annular surface **235** configured to mate with or be closely received by a complementary surface. Other mounting conventions may be employed (paragraph 28, figure 4). **TRAUT** does not specifically teach the circular groove of claims 13, 26, and 39, but the mounting conventions are structurally capable of introducing the tubular body to the body 200 where the odor absorbing means is held.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARLA HAWKINS whose telephone number is (571) 270-5562. The examiner can normally be reached on Monday-Thursday 7:30- 5, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DUANE SMITH/
Supervisory Patent Examiner, Art Unit 1797

Karla Hawkins
Examiner
Art Unit 1797